

STATE OF CALIFORNIA
SECRETARY OF STATE
PUBLIC HEARING ON
REQUEST FOR APPROVAL OF TECHNOLOGY VOTING

Thursday, September 27, 2017

9:00 A.M.

Election Systems and Software

Secretary of State Building

Auditorium

1500 11th Street

Sacramento, California

Reported by:

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APPEARANCESSTAFF

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Paul Kraft, Freeman, Kraft & McGregor Consulting
Group

Steve Pearson, Election Systems & Software

Bryan Finney, Democracy Live

John Schmitt, Five Cedars Group, Inc.

PUBLIC COMMENT

Kim Alexander, California Voter's Foundation

Cindy Smith, State Council on Developmental
Disabilities

Jeff Thom, California Council of the Blind

Diana, on behalf of Fred Nisen, Disability
Rights California

APPEARANCESPUBLIC COMMENT

Lynda Johnson

Michael Nunez, Rosen, Bien, Galvan & Grunfeld

James Gump

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P R O C E E D I N G S

September 27, 2017

9:05 A.M.

Testing? Okay. Good morning everyone. I am NaKesha Robinson with the California Secretary of State, Office of Voting Systems Technology Assessment. I was the lead analyst on the testing on the Election Systems and Software's EVS 5.2.1.0, now CA system.

The system -- we received an application for the system in September of last year. Soon thereafter, we contracted with Freeman, Craft & McGregor Consulting Group, also known as FC&G through the Competitive California Bid process.

Testing of the EVS 5.2.1.0 CA system began in late March of this year and concluded, initially, around the end of June. We conducted all of the standard phases of testing, functional, source code review, red team (phonetic) or security, volume and accessibility. The system was tested under the Voluntary Voting System Standard, or VVSG.

I will not go into specific details as the reports do speak for themselves, and they are posted out on our public website. Rather, I'd like to lead into why we determined the new

1 version number.

2 At the conclusion of our initial testing,
3 reports were issued, specifically the Red Team and
4 Security Report. In those reports there were a
5 number of vulnerabilities identified which we felt
6 had to be mitigated, so the Secretary of State
7 staff and ES&S jointly agreed on a path to
8 mitigation.

9 Subsequently we reassembled our test
10 team, including Secretary of State staff, FC&G, as
11 well as ES&S staff. Over the course of about one
12 week we applied patches to the EVS 5.2.1.0 CA
13 system, including addressing multiple operating
14 system vulnerabilities, an unquoted (phonetic)
15 service path vulnerability, an AMT specific to
16 Dell hardware vulnerability, and AMT is active
17 management technology.

18 Also, in addition to those patches and
19 scripts that were ran, we also conducted and
20 additional tamper evidence seal testing. The
21 seals that were initially provided were not
22 adequate enough to determine that -- I'm losing my
23 train of thought, sorry -- they were not adequate
24 enough to provide evidence that the seals had been
25 tampered with, so ES&S provided us with additional

1 seals that are available out there on the market.
2 Six were tested, an approximately one, which we
3 refer to as the red and white seal, performed to a
4 standard that was acceptability and properly left
5 evidence of tampering

6 We also completed additional progression
7 testing after all the scripts and patches were
8 applied to the system. And thus, with those
9 patches and scripts being applied to the initial
10 system the name change, 5.2.1.0 CA, specific to
11 California.

12 With that, I will open the floor up to
13 Paul Kraft of Freeman, Kraft & McGregor, to
14 present the consultant's report.

15 MR. KRAFT: Good morning. I'm Paul
16 Kraft. I'm one of the partners from Freeman,
17 Kraft & McGregor Group. We have been doing
18 certification testing for the Secretary of State
19 of California for about 12 years, since our
20 company began business, basically, in December of
21 2005.

22 I think Mr. Ross did an excellent job of
23 describing the process, the same process that
24 everybody uses, so I won't go into that.
25 Additionally, our reports have been very carefully

1 written with about 14 people contributing, the
2 Secretary of State also approving and giving final
3 approval to those reports, making sure that we
4 cover everything that's important to them, so I
5 think the reports speak for themselves.

6 Excuse me.

7 It's really all of the people who
8 contributed to these reports, frankly, in their
9 subject area, know more about what they're talking
10 about in the report than I do, so there's really
11 nothing I can elaborate on.

12 As with the other system, we ran a
13 functional test which simulates conduct end to end
14 of a primary and general election, a vote center
15 primary, a recall, and a rank choice voting
16 election. We found really no anomalies in
17 functional testing. The volume test was run,
18 covering the DS 200, the AutoMARK and the
19 ExpressVote. We found some reliability issues
20 with the AutoMARK. It has improved, I think,
21 slightly over previous generations, but it was
22 subject to a small number of ballot jams during
23 the process.

24 The ExpressVote performed in volume
25 testing with no anomalies at all.

1 The DS 200 had a few jams. Most of those
2 jams, though, were either an error in test setup,
3 or basically a voter who was being overly
4 aggressive feeding ballots.

5 In accessibility testing we were a little
6 disappointed. We could only raise a group of, I
7 believe, five or six volunteers for that testing.
8 They also, you know, had a very narrow selection
9 of disabilities. We had, I believe it was three
10 people with visual disabilities, and two people
11 with mobility or skeletal-muscle issues.
12 Everybody was able to successfully vote a ballot,
13 except one gentleman who required us to basically
14 hold the accessibility keypad for him. But we
15 felt with a properly trained poll worker assisting
16 him, and perhaps a table for him to set that
17 device on, he could have also voted somewhat
18 independently.

19 And source code review, there were really
20 no show-stopping issues. There were a number of
21 compliance findings, compliance with the VVSG,
22 fairly were all low-level vulnerabilities and
23 nothing that basically gives a high level of risk.

24 And our security review, basically that's
25 already been described. There were a number of

1 vulnerabilities, but there were three that
2 basically concerned the Secretary. Two of those
3 ES&S successfully addressed, the unquoted service
4 path and Microsoft patches. We also, while we
5 were in tests, were able to address the AMT
6 vulnerability. That Intel active management
7 technologies, something discovered about six
8 months ago. This vulnerability allows anyone to
9 come in remotely and bypass the administrator and
10 user passwords, fire up the system remotely, and
11 do anything inside of it that they want to. This
12 is something that Intel put into the chip to make
13 it easy for people running data centers to do
14 maintenance and auditing of equipment.

15 Intel came up with a patch for that,
16 actually, I think it was Wednesday of last week.
17 So we went ahead and put that on the system and
18 are supplemental testing.

19 The supplemental test, basically, was
20 designed to go through all those patches, make
21 those patches part of the trusted build for the
22 Secretary, and the to verify that the system still
23 worked. In verifying it, we reran the large vote
24 center primary election, and we reran the general
25 election, and ran those elections end to end,

1 including tabulating ballots, printing reports,
2 and verifying there were no anomalies.

3 So that's pretty much. I encourage you
4 to read the reports. We're very proud of them.
5 We have taken great pains to try to put them into
6 language that does not require the reader to have
7 real specialized knowledge of either technology or
8 elections.

9 So thank you very much.

10 MS. LAPSLEY: Thanks, Paul.

11 So again, all the reports are available
12 on our website.

13 I did neglect to mention before we
14 started that all of the systems, all four system
15 are set up in the back for those of you who may
16 want to, if we have an intermission or at lunch or
17 after the hearing is over, to touch and feel and
18 play around with them. And the respective vendors
19 are there to be able to answer any questions that
20 you may have, as well.

21 With that, ES&S, do you guys -- would you
22 like to come down and introduce yourself, say hi,
23 answer/address any issues or concerns? Please
24 state your name for the stenographer.

25 MR. PEARSON: Okay.

1 MS. LAPSLEY: That one should work.

2 MR. PEARSON: Okay. Well, good morning.
3 My name is Steve Pearson. I am Vice President of
4 Voting Systems for ES&S. My primary responsibility
5 is to oversee the federal testing and state
6 certification for the company.

7 I really want to commend the Secretary of
8 State's staff, Freeman, Kraft & McGregor, and I
9 want to recognize Brooke Thernes from ES&S and the
10 ES&S team for this test campaign. I want to -- we
11 certify systems in well over 40 states, about 45
12 states. And I've been doing this for a long time,
13 probably almost 17 years. So -- but I want to
14 commend this staff and the procedure because it is
15 truly one of the best test processes in the
16 country from our vantage point and our viewpoint.
17 It is. What it does is it ensures the state and
18 the counties and the voters and the State of
19 California that they're getting good, reliable,
20 secure systems at the end of the day.

21 So really, that's all my comments. I
22 wanted to thank you all for that.

23 MS. LAPSLEY: Great. Thank you.

24 So I have only one speaker card. Again,
25 if there -- if anyone else would like to speak on

1 this system, please raise your hand and Rodney can
2 bring a card to you.

3 But, Kim, you are the only speaker card
4 that I have. And I know you already did so for the
5 previous comment, but can you state your name for
6 the stenographer again please?

7 MS. ALEXANDER: Hi. I'm Kim Alexander
8 with the California Voter Foundation. I do want
9 to thank you for the detailed reports on the
10 vendors that you've published on your site. They
11 are incredibly useful and they do set a high
12 standard for how states should approach their
13 voting system certification process.

14 I did download all the reports I could
15 see at five o'clock last night and I did not see
16 those supplemental reports, so my remarks about
17 what was available at that time. I will take time
18 to go through and read those.

19 I want to share with you that throughout
20 the year I have been participating in Southern
21 California County's implementation of the Voter's
22 Choice Act, and I am following, as best as I can,
23 the county's acquisition process for procuring new
24 voting equipment. And I'm concerned that
25 Sacramento has put itself on a tight timeline to

1 purchase new equipment. They have taken bids from
2 companies up today for certification. And I hope
3 that this does not put pressure on the Secretary
4 of State, as has happened in the past, to rush to
5 certify equipment that has issues.

6 And I'm happy to learn today that you
7 have been addressing the very serious security
8 issues that were identified in the August reports
9 that were published on the Secretary of State's
10 website. Those security issues were raised not
11 just by me but by other people working in other
12 states dealing in ES&S equipment. And so it's
13 illuminating for the whole country to see what you
14 have identified, so I appreciate that.

15 You know, when counties make voting
16 equipment purchases they are hoping and expecting
17 to use the equipment that they're buying for at
18 least ten years. So the last time around, in
19 2002, we rushed certification before systems --
20 before security issues were fully addressed. And
21 as a result, millions of dollars were wasted on
22 equipment that was not usable to California
23 standards, so I want to make sure we don't do that
24 again.

25 I have urged Sacramento County to take a

1 little bit more time in its procurement process,
2 since there are so many other vendors in the
3 certification pipeline, which I'm also very happy
4 to see.

5 Several other counties are also like to
6 purchase new equipment as they make plans to
7 implement the Voter's Choice Act. This includes
8 San Mateo, Nevada, Napa, and possibly Sutter. And
9 in light of this, I suggest that the Secretary of
10 State organize a public vendor fair for vendors to
11 come and demonstrate their equipment, not just in
12 the back of the room which is just a piece of it,
13 but the whole end-to-end process, so the
14 registrars and voter advocates and any interested
15 person who wants to try it out can do so and ask
16 questions, before their counties go out and make
17 these very important purchases. You know, we're
18 not just buying a new Wi-Fi system for some
19 government office, we're buying the equipment that
20 people will use to cast their votes, so I think
21 the public should have more of a look into those
22 systems before those counties make those
23 acquisitions. And I hope your office will
24 consider helping to facilitate that, and I'm happy
25 to support that if you can organize one.

1 Thank you.

2 MS. LAPSLEY: Great. Thank you, Kim.

3 And then, Cindy Smith, you had some
4 general comments, not necessarily specific to this
5 system, but general comments. And again, I'd ask
6 that you just state your name for the
7 stenographer.

8 MS. SMITH: Good morning. My name is
9 Cindy Smith, and I am the Deputy Director for
10 Public Policy at the State Council and Development
11 Disabilities. I'm sorry. I'm a little bit
12 taller, I guess. We're pleased to be able to
13 offer a general comment today.

14 As background, close to 50 years ago,
15 congress created the State Council for
16 Developmental Disabilities in every state and
17 every territory to ensure individuals with
18 developmental disabilities have access to services
19 and supports that ensure that they can realize
20 self-determination, independence, productivity,
21 integration and inclusion in all aspects of
22 community life. We do this work through advocacy,
23 capacity building and systemic change activities.

24 We will be offering written testimony,
25 but we wanted to take a moment to acknowledge

1 you're inclusion of our Self-Advocacy Advisory
2 Committee as you prepared for this meeting today.
3 In July you came and previewed the two first --
4 the two versions of the technology that were
5 discussed first this morning. And the Council
6 asked me to come and just briefly thank you for
7 the inclusion of the Self-Advocacy Advisory
8 Committee.

9 The members of the Committee are nine
10 individuals with intellectual and developmental
11 disabilities. They greatly appreciate having the
12 opportunity to preview the systems, watch the
13 presentations, and provide preliminary feedback as
14 you prepare for this meeting today. We encourage
15 you to continue to include the Self-Advocacy
16 Advisory Committee and the Council as you continue
17 to work forward to approving these voting systems.

18 So thank you for the inclusion of the
19 Council and the Self-Advocacy Advisory Committee.
20 And we encourage you to continue to include self-
21 advocates moving forward.

22 MS. LAPSLEY: Great. Thank you very
23 much. And thanks for allowing us to take part in
24 it.

25 MS. SMITH: Absolutely. Thank you.

1 MS. LAPSLEY: I think it's a great
2 partnership moving forward.

3 All right, we are just going to roll
4 right into the next one, rather than taking a
5 break.

6 MR. RODNEY: I need a couple of minutes,
7 just to get Mike back up.

8 MS. LAPSLEY: Come on. Let's go.

9 MR. RODNEY: I'm sorry.

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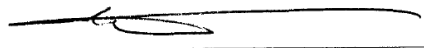
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And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of October, 2017.



PETER PETTY
CER**D-493
Notary Public

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MARTHA L. NELSON, CERT**367

October 11, 2017